REMARKS

Claims 1-17 are pending in the instant application.

With respect to the Examiner's suggestion that the dependency of claims 14 and 15 on claim 6 is incorrect, it is respectfully pointed out that a Preliminary Amendment was filed by Applicants on February 20, 2002 correcting the claim dependency to claim 11. A copy of this Preliminary Amendment and evidence of its receipt by the United States Patent Office is provided herewith.

Claims 1-17 have been subjected to the following Restriction Requirement:

Group I, claims 1-5, 7-9 and 15, drawn to nucleic acids, vectors, host cells, kits and methods for making a polypeptide, classified in class 536, subclass 23.1, and class 435, subclasses 69.1, 320.1 and 325;

Group II, claim 6, drawn to a method for determining the presence of a prostate specific nucleic acid by hybridization, classified in class 435, subclass 6;

Group III, claims 10-11 and 15, drawn to polypeptides and kits comprising a polypeptide, classified in class 530, subclass 350;

Group IV, claim 12, drawn to an antibody, classified in

class 530, subclass 387.1;

Group V, claim 13, drawn to a method for determining the presence of a prostate specific protein using an antibody, classified in class 435, subclass 7.1;

Group VI, claim 14 (in part), drawn to a method for diagnosing and monitoring the presence and metastases of prostate cancer in a patient by determining the amount of a nucleic acid molecule, classified in class 435, subclass 4;

Group VII, claim 14 (in part), drawn to a method for diagnosing and monitoring the presence and metastases of prostate cancer in a patient by determining the amount of a nucleic acid molecule, classified in class 424, subclass 277.1;

Group VIII, claim 16, drawn to a method of treating a patient with prostate cancer with an antibody, classified in class 424, subclass 130.1;

Group IX, claim 17 (in part), drawn to a vaccine comprising a polypeptide, classified in class 514, subclass 2; and

Group X, claim 17 (in part), drawn to a vaccine comprising a nucleic acid, classified in class 514, subclass 44.

The Examiner suggests that these Groups are distinct. Specifically, with respect to Groups I, III, IV, IX and X, the Examiner suggests that these Groups are distinct because they are

drawn to different products having different structure and functions. With respect to Group I and (II and VI) or Group II and (III, IV, IX and X) or Group III and VII or Group IV and (V and VIII) the Examiner has acknowledged their relation as product and process of use, but suggests that they are distinct because the product as claimed can be practiced with another materially different process. With respect to Group I and (V, VII and VIII) or Group II and V-VIII or Group II and (V, VI, and VIII) or Group IV and (VI-VII) or Group III and (V, VI and VIII) or Group IV and (VI-VII) or Group V-VII and IX and X, the Examiner suggests that the Groups are unrelated as the different inventions are not required for one another.

Further, the Examiner suggests that the different classification demonstrates an acquired different status in the art for these Groups and thus would require different searches.

The Examiner also suggests that election of a single nucleic acid, polypeptide or antibody is required because each constitutes an independent and patentably distinct invention.

Applicants respectfully traverse this Restriction Requirement.

MPEP §803 provides two criteria which must be met for a restriction requirement to be proper. The first is that the

inventions be independent or distinct. The second is that there would be a serious burden on the Examiner if the restriction is not required. A search of prior art relating to an elected nucleic acid, polypeptide or antibody would also reveal any references teaching uses for the nucleic acid, polypeptide or antibody. Accordingly, Applicants believe that searching of all the claims, at least when limited to elected nucleic acids, polypeptides, or antibodies, is overlapping and would not place an undue burden on the Examiner if the Restriction is not made.

Thus, since this Restriction Requirement does not meet both criteria as set forth in MPEP § 803 to be proper, reconsideration and withdrawal of this Restriction Requirement is respectfully requested.

In addition, with respect to the election of a single sequence, MPEP § 803.04 clearly states that a reasonable number of nucleotide sequences, normally ten sequences, can be claimed in a single application. Accordingly, withdrawal of this sequence election requirement and reconsideration to include a more reasonable number of at least 10 sequences in accordance with MPEP § 803.04 is also respectfully requested.

However, in an earnest effort to advance the prosecution of this case Applicants elect Group I, claims 1-5, 7-9 and 15 with

traverse. Further, Applicants elect SEQ ID NO:43 encoding SEQ ID NO:96, with traverse. Since SEQ ID NO:42 is a sub-sequence of SEQ ID NO: 43, it is respectfully requested that at least SEQ ID NO:42 be included in this case as well.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record.

Respectfully submitted,

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